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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,743	11/21/2003	Matias Duarte	4676P045	1792

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EXAMINER	
SHINGLES, KRISTIE D	

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,743	DUARTE ET AL.	
	Examiner	Art Unit	
	Kristie Shingles	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-10 and 23-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-10 and 23-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *7/10/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1, 2, 4-10 and 23-30 are pending.

RESPONSE TO AMENDMENTS

1. No claims have been amended. Claims 3, 11-22 and 31-40 are cancelled.

RESPONSE TO ARGUMENTS

2. Applicant's arguments, see Remarks pages 8-11, filed 7/10/2006, with respect to the rejection of claims 1, 2, 23 and 29 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of *Enger et al* (US 2005/0020325) and *Saarinen* (US 6,882,335).

CLAIM REJECTIONS - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 29 and 30** are rejected under 35 U.S.C. 102(e) as being anticipated by *Enger et al* (US 2005/0020325).

a. **Per claim 29,** *Enger et al* teach a data processing device comprising:

- a first plurality of control elements associated with a first plurality of functions (Abstract, page 1 paragraphs 0008-0009; control elements associated with functions corresponding to the multiple modes of operation based on the device's multiple configurations—such as portrait, landscape, and closed configurations—causing a repositioning of inputs, displays and/or software of the device);

- a second plurality of control elements associated with a second plurality of functions, wherein the second plurality of control elements is hidden from a user when the device is in a first orientation and when the device is in a third orientation (page 2 paragraphs 0017-0018; page 3 paragraph 0029-0032, page 5 paragraphs 0042-0048, 0052; page 6 paragraph 0053; phone mode is associated with the portrait orientation which involves opening the flip cover and switching the keypad from QWERT to numeric); and

- a third plurality of control elements associated with a third plurality of functions, wherein the second plurality of control elements is hidden from a user when the device is in the first orientation and when the device is in a second orientation (page 3 paragraph 0029-0032, page 4 paragraph 0035-0036, 0039-0041, page 5 paragraph 0049; in standby mode the flip cover is closed thus hiding the control elements for the modes affiliated with the portrait and landscape orientations).

b. **Per claim 30,** *Enger et al* teach the data processing device of claim 29 wherein a first operating mode is associated with the first orientation; a second operating mode is associated with the second orientation; and a third operating mode is associated with the third orientation (Abstract, page 1 paragraphs 0008-0009, page 3 paragraph 0032).

CLAIM REJECTIONS - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 1, 2, and 4-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Nguyen* (US 5,797,089) in view of *Saarinen* (US 6,882,335).

c. **Per claim 1,** *Nguyen* teaches a data processing device having a first operational mode and a second operational mode, the data processing device comprising:

- a plurality of control elements to perform a first plurality of defined functions when the data processing device is in the first operational mode and to perform a second plurality of defined function when the data processing device is in the second operational mode (col.3 line 37-col.4 line 22; provision for telephone functions in the telephone mode and PDA functions in the PDA mode),

- wherein the first operational mode is associated with a first physical orientation of the data processing device and the plurality of control elements and the second operational mode is associated with a second physical orientation of the data processing device and the plurality of control elements (col.3 line 37-col.4 line 22, col.5 lines 47-51, col.6 lines 17-20; the operational modes are associated the orientation of the device),

Nguyen teaches light-indicators to indicate the operational mode of the device and the automatic enablement of functions when in the particular operation mode (col.4 lines 8-27, col.5 lines 15-18 and 49-51, col.6 lines 1-24, col.6 line 45-col.7 line 21). Yet *Nguyen* fails to explicitly teach wherein at least one of the plurality of control elements includes: a first glyph representing a designated one of the first specified functions, the first glyph being highlighted when the data processing device is in the first operational mode and a second glyph representing a designated one of the second specified functions, the second glyph being highlighted when the data processing device is in the second operational mode, wherein the data processing device automatically highlights the first glyph when in the operational mode and automatically highlights the second glyph when in the second operational mode. However, *Saarinen* teaches a graphic symbol or icon associated with the operational mode and orientation of the device,

wherein the symbol/icon is activated and displayed in response to the portrait/landscape switching signal corresponding to the portrait/landscape mode of the device (col.16 lines 5-29, col.5 lines 13-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Nguyen* and *Saarinen* for the purpose of providing mode glyphs/indicators associated with the respective orientation and operating mode of the device; because it displays to the user a mode identification means by visually informing the user (via a symbol/icon/glyph/graphic) of the device's present operating mode.

d. **Per claim 2,** *Nguyen* and *Saarinen* teach the data processing device as in claim 1 *Saarinen* further teach the device further comprising: a display having a viewable display screen for rendering images generated by the data processing device, the display screen rendering images in a first orientation when the data processing device is in the first operational mode and rendering images in a second orientation when the data processing device is in the second operational mode (Abstract, col.8 lines 13-35).

e. **Per claim 4,** *Nguyen* and *Saarinen* teach the data processing device in claim 1, *Saarinen* further teach wherein each of the first glyphs are positioned on each of the control elements in a first orientation corresponding to the first orientation of the data processing device and each of the second glyphs are positioned on each of the control elements in a second orientation corresponding to the second orientation of the data processing device (col.16 lines 5-29, col.5 lines 13-38; *Nguyen*: col.5 lines 15-18, col.6 line 45-col.7 line 12).

f. **Per claim 5,** *Nguyen* and *Saarinen* teach the data processing device as in claim 4, *Saarinen* further teach wherein the first orientation is rotated 90 degrees relative to the second orientation (Figures 2-4, col.8 lines 51-53; *Nguyen*: col.3 lines 55-63).

g. **Per claim 6,** *Nguyen* and *Saarinen* teach the data processing device as in claim 1 *Nguyen* further teaches wherein the first operational mode comprise: a data entry mode and wherein the second operational mode comprises a telephony mode wherein the data processing device performs telephony-based functions (col.3 line 37-col.4 line 22, col.5 lines 23-45; *Saarinen*: col.10 lines 34-58).

h. **Per claim 7,** *Nguyen* teaches the data processing device as in claim 6 wherein, when in the telephony mode, the second specified function for a group of the control elements is that of a numeric keyboard for entering telephone numbers (col.5 lines 23-25; *Saarinen*: col.10 lines 49-51).

i. **Per claim 8,** *Nguyen* teaches the data processing device as in claim 7 wherein, when in the data entry mode, the first specified function for a group of the control elements is that of a cursor control keypad (col.4 lines 20-22; *Saarinen*: col.10 lines 52-55).

j. **Per claim 9,** *Nguyen* and *Saarinen* teach the data processing device as in claim 1, *Nguyen* further teaches wherein the plurality of control elements includes a control wheel for moving a graphical cursor element when rotated in either the first operational mode and/or the second operational mode (col.4 lines 20-22; *Saarinen*: col.18 lines 53-55).

k. **Per claim 10,** *Nguyen* teaches the data processing apparatus as in claim 9 wherein the plurality of control elements includes a plurality of keys and/or buttons (col.3 line 40, col.4 lines 20-22 and 48, col.5 lines 13-25; *Saarinen*: col.10 lines 34-55).

7. **Claims 23 - 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Claxton* (US 6,434,371) in view of *Saarinen* (US 6,882,335).

1. **Per claim 23,** *Claxton* teaches a data processing device having a first operational mode and a second operational mode comprising: a motion sensor to detect the orientation of the data processing device, wherein the data processing device automatically switches from the first operational mode to the second operational mode in response to the motion sensor detecting the data processing device switching from the first physical orientation to the second physical orientation (Abstract, col.2 lines 8-50, col.3 lines 30-47, col.4 line 64-col.5 line 61; provision for detecting and determining the orientation of the device and enabling the associated functions for that particular operation mode).

Yet *Claxton* fails to explicitly teach a first group of control elements to perform a first plurality of defined functions within a first physical orientation and to perform a second plurality of defined functions within a second physical orientation. However, *Saarinen* teaches that depending on the device's orientation, particular speakers provide stereo-sound production in one orientation and provide user feedback or ring tones in another orientation (col.8 lines 13-44, col.9 line 60-col.10 line 15, col.11 line 60-col.12 line 36, col.17 lines 1-13). Furthermore, *Saarinen* teaches an orientation detector for detecting and signaling the device's orientation for automatic switching between the device's operational modes (col.10 lines 16-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Claxton* and *Saarinen* for utilization of the device's control elements in the different operative modes, wherein the control elements comprise defined functions based on the device's orientation—this allows for extended functionality of the device's elements by fully using the

abilities of the elements in order to support the different operational modes without having to provide additional hardware or extra elements with over-lapping abilities.

m. **Per claim 24,** *Claxton* and *Saarinen* teach the data processing device as in claim 23, *Saarinen* further teach the device further comprising: a display render having a first image orientation associated with the first operational mode an to render images having a second image orientation associated with the second operational mode (Abstract, col.8 lines 13-35).

n. **Per claim 25,** *Saarinen* teach the data processing device as in claim 24, wherein the first image orientation is rotated plus or minus 90 degrees with respect to the second image orientation (Figures 2-4, col.8 lines 51-53, col.10 lines 16-33, col.11 lines 2-65, col.17 lines 28-32).

o. **Claim 26** is substantially similar to claim 25 and is therefore rejected under the same basis.

p. **Per claim 27,** *Claxton* and *Saarinen* teach the data processing device in claim 1, *Saarinen* further teach wherein the group of control elements include a first group of glyphs representing the first plurality of defined functions and a second group of glyphs representing the second plurality of defined functions (col.16 lines 5-29, col.5 lines 13-38).

q. **Per claim 28,** *Saarinen* teach the data processing device as in claim 27 wherein the data processing device highlights the first group of glyphs when in the data entry mode and highlights the second group of glyphs when in the telephony mode (col.16 lines 5-29, col.5 lines 13-38).

CONCLUSION

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Tornaghi (7,043,284), Register (5,661,632), Hinckley (2003/0085870), Finke-Anlauff (6,850,226), Lenchik et al (6,658,272), Moon et al (2004/0090469), Vossler (2004/0097218), Battles et al (2004/0160463), Sutton et al (6,989,984), Karaoguz et al (2002/0059434), Jarrett (6,950,674), Vertaschitsch et al (6,976,217).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds

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SUPERVISORY PATENT EXAMINER